

Congress of the United States

House of Representatives

107th Congress

Committee on Small Business

Subcommittee on Tax, Finance and Exports

2361 Rayburn House Office Building

Washington, DC 20515-6515

June 13, 2002

Ms. Susan Schneider
Defense Acquisition Regulations Council
Office of the Undersecretary of Defense (AT&L)DP(DAR)
IMD 3C132
3062 Defense Pentagon
Washington, D.C. 20301-3062

Re: DFARS Case 2002-D003

Dear Ms. Schneider:

This is in response to the above-referenced interim rule which was issued April 26, 2002, and is eligible for comment until June 25, 2002. On behalf of the clothing and textiles manufacturers of my District, I appreciate the opportunity to comment on this important issue. In addition, to my comments today, I am enclosing comments made by a number of manufacturers in my District.

As you know, this interim rule was issued as a result of Section 811 of the Fiscal Year 2002 Defense Authorization Act, which requires the Department of Defense (DoD) to conduct market research before purchasing a product listed in the Federal Prison Industries (FPI) catalog to determine whether the FPI product is comparable in price, quality, and time of delivery to products available from the private sector.

The intent of this provision is obviously to open contracts previously held solely by FPI to civilian contractors for the opportunity to bid. However, after reviewing the rule, I have the following observations and recommendations:

1. The Interim Rule does not define what constitutes "comparable price, quality, and time of delivery" with respect to FPI products compared to its private sector competition. Because of the volume of products procured by the DoD, it may not be feasible to produce a single general methodology that applies to every product. However, in the interest of fairness, the rule should require full

disclosure of specific guidelines and the methodology used to come to the conclusion that a product is "comparable" in any of these respects;

2. If the Defense Department finds that FPI cannot meet its requirements, it is my understanding that the rule, as currently written, says the goods must be acquired after competition at which the contracting officer must consider a bid by FPI. How will FPI meet the requirements of a solicitation when the contracting officer already has determined that FPI cannot meet its needs?;
3. Section 811 does not define competition. Under the Federal Acquisition Regulations (FAR), certain contracts must be set aside for competition among small businesses if the contracting officer finds that at least two small businesses will meet the needs of the Defense Department in terms of price, quality, and time of delivery. This is not an open competition. Therefore, the Defense Department should reconsider its interpretation of Section 811 and restrict FPI competition to those instances of "open" competition, i.e., those instances in which the contract has not been set aside for competition among small businesses. Prior to the issuance of this rule, FPI has been defined as an "other than small" business, and therefore has not been eligible to compete for small business set-aside contracts. The new rule completely violates the Congressional intent of Section 811, and absolutely must be rescinded. If finalized in its current form, this provision would essentially maintain the status quo with respect to FPI's monopoly on products it manufactures.

The implementation of Section 811 and the corresponding rule is a groundbreaking step for our nation's small businesses. However, it is vital that the rule be fully consistent with Congressional intent. I am looking forward to working with you to develop the final version of this rule, and look forward to your response to my comments. Should you have any questions, please feel free to contact me or Sean McGraw, Staff Director, Subcommittee on Tax, Finance, and Exports, House ~~Committee on~~ Small Business.

Sincerely,



Patrick J. Toomey
Member of Congress

DONALD A. MANZULLO, ILLINOIS
CHAIRMAN

NYDIA M. VELÁZQUEZ, NEW YORK

Congress of the United States

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Re: DFARS Case 2002-D003

Dear Ms. Schneider:

This is in response to the above-referenced interim rule, which was issued April 26, 2002. On behalf of the House Committee on Small Business, I appreciate the opportunity to comment on this important issue.

As you know, this interim rule was issued as a result of Section 811 of the Fiscal Year 2002 Defense Authorization Act, which requires the Department of Defense (DoD) to conduct market research before purchasing a product listed in the Federal Prison Industries (FPI) catalog to determine whether the FPI product is comparable in price, quality, and time of delivery to products available from the private sector.

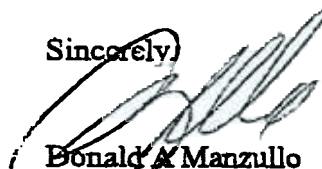
The intent of this provision is obviously to open contracts previously held solely by FPI to civilian contractors for the opportunity to bid. However, after reviewing the rule, I have the following observations and recommendations:

- 1 The Interim Rule does not define what constitutes "comparable price, quality, and time of delivery" with respect to FPI products compared to its private sector competition. Because of the volume of products procured by the DoD, it may not be feasible to produce a single general methodology that applies to every product. However, in the interest of fairness, the rule should require full disclosure of specific guidelines and the methodology used to come to the conclusion that a product is "comparable" in any of these respects;

2. If the Defense Department finds that FPI cannot meet its requirements, it is my understanding that the rule, as currently written, says the goods must be acquired after competition at which the contracting officer must consider a bid by FPI. How will FPI meet the requirements of a solicitation when the contracting officer already has determined that FPI cannot meet its needs?
3. Section 811 does not define competition. Under the Federal Acquisition Regulations, certain contracts must be set aside for competition among small businesses if the contracting officer finds that at least two small businesses will meet the needs of the Defense Department in terms of price, quality, and time of delivery to products available from the private sector. That is not an open competition. Therefore, the Defense Department should reconsider its interpretation of Section 811 and restrict FPI competition to those instances of "open" competition, i.e., those instances in which the contract has not been set aside for competition among small businesses.
4. Prior to the issuance of this rule, FPI has been defined as an "other than small" business, and therefore has not been eligible to compete for small business set-aside contracts. However, it is my understanding that this rule, as currently written, would now permit FPI to compete for small business set aside contracts. This provision completely violates the Congressional intent of Section 811, and absolutely must be rescinded. If finalized in its current form, this provision would essentially maintain the status quo with respect to FPI's monopoly on products it manufactures.

The implementation of Section 811 and the corresponding rule is a groundbreaking step for our nation's small businesses. However, it is vital that the rule be fully consistent with Congressional intent. I look forward to working with you to develop the final version of this rule while keeping the concerns of small businesses in mind. Should you have any questions, please feel free to contact me or Nelson Crowther, Procurement Counsel, House Committee on Small Business.

Sincerely,



Donald A. Manzullo
Chairman

House Committee on Small Business

ATLANTIC APPAREL

Contractors Association

107 East Main Street, Suite 202, Bath, PA.

Phone 610 837 4220

Fax 610 837 4224

Arnold Delin, Executive Director

Joseph Dell'Alba, President

June 24, 2002

Ms. Susan Schneider
Defense Acquisition Regulations Council
Office of the Undersecretary of Defense (AT&L)DP(DAR)
IMD 3C132
3062 Defense Pentagon
Washington, D.C. 20301-3062

Re: DFARS Case 2002-D003

Dear Ms. Schneider:

This is in response to the above-referenced interim rule which was issued April 26, 2002, and is eligible for comment until June 25, 2002. Thank you for giving us this opportunity to respond. I am responding on behalf of the members of the Atlantic Apparel Contractors Association (a membership list is enclosed). Our members are excited by the new opportunity afforded them by Section 811 of the Fiscal Year 2002 Defense Authorization Act. As civilian contractors, our members look forward to competing with FPI products and services. However, after reviewing the rule our members have the following recommendations:

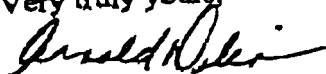
The rules and methodologies used to determine "comparable price, quality, and time of delivery" with respect to FPI products and those available from the private sector must be public and absolutely transparent to all. This is a necessity to educate, and therefore improve the competitive dynamics envisioned by Section 811, all private sector producers on how these important factors are measured. Such transparency also assures both the fact and appearance of fairness;

- The rule must also exclude FPI from eligibility to compete for small business set-aside contracts. This exclusion existed prior to Section 811 for the encouragement of small business growth and development. The need for such encouragement has not diminished.

Section 811 is an important business opportunity for our members and their employees. As you are probably aware, the domestic apparel industry is under severe stress as a result of imported products and we look forward to this new market (formerly closed to us) in which to compete.

Thank you on behalf of the members of Atlantic Apparel, and their employees who desperately need help.

Very truly yours,



Arnold Delin
Executive Director
Atlantic Apparel Contractors Association, Inc.

**LIST OF ATLANTIC APPAREL CONTRACTORS ASSOCIATION, INC
MEMBERS**

A & H SPORTSWEAR, INC. #1
500 WILLIAM STREET
PEN ARGYL, PA 18072

A & H SPORTSWEAR, INC.#3
111 SPRING GARDEN STREET
EASTON, PA 18042

A & H SPORTSWEAR, INC.#5
ROUTES 33 & 191
STOCKERTOWN, PA 18083

BLUE RIDGE SPORTSWEAR
620 FIFTH STREET
PALMERTON, PA 18071

CASTLEFORD TAILORS, LTD
34 W BLACK HORSE PIKE
COLLINGS LAKE, NJ 08094

DAVID STEVENS MFG., INC.
109 NORTH BLACK HORSE PIKE
BLACKWOOD, NJ 08012

GINO & JACK MFG. INC.
231 MOORESTOWN DRIVE
BATH, PA 18014

INTERNATIONAL WOMEN'S APPAREL, INC.
610 UHLER ROAD
EASTON, PA 18040

JEAN MICHAELS, INC.
1 IRONSIDE COURT
WILLINGBORO, NJ 08046

L. CHESSLER, INC.
5301 TACONY ST - SUITE 208
PHILADELPHIA, PA 19137

A & H SPORTSWEAR, INC.#2
229 NORTH GREEN STREET
EASTON, PA 18042

A & H SPORTSWEAR, INC. #4
50 SYCAMORE STREET
NAZARETH, PA 18064

ANNA SPORTSWEAR, INC.
110 FRANKLIN STREET
PEN ARGYL, PA 18072

CALI SPORTSWEAR, INC.
1457 SECOND & PINE STREETS
PEN ARGYL, PA 18072

THE CUTTING CO., INC.
MULBERRY & MAIN STREETS
BATH, PA 18014

FULLER SPORTSWEAR CO.
211 QUARRY STREET
FULLERTON, PA 18052

IN VOGUE APPAREL, INC.
324 ALLEN STREET
WEST HAZLETON, PA 18201

JAURICE, INC.
555 NORTH MAIN STREET
BANGOR, PA 18013

JIM JAM SPORTSWEAR CO.
410 NAZARETH PIKE
BETHLEHEM, PA 18017

MARIA ROSE FASHIONS, INC.
100 MAJESTIC WAY
BANGOR, PA 18013

ATLANTIC APPAREL CONTRACTORS ASSOCIATION, INC.
MEMBERSHIP LIST CONTINUED

MARIA ROSE FASIONS, INC.
ONE BLUE VALLEY DRIVE
BANGOR, PA 18013

MARIA ROSE FASHIONS
153 8TH STREET
WIND GAP, PA 18091

ROSAL SPORTSWEAR, INC.
335 NORTH SEVENTH STREET
LEHIGHTON, PA 18235

SCOTTY'S FASHIONS CUTTING, INC.
MAIN STREET
PEN ARGYL, PA 18072

SCOTTY'S FASHIONS CUTTING, INC.
477 LEHIGH AVENUE
PALMERTON, PA 18071

SCOTTY'S FASHIONS CUTTING, INC.
R.D.4, BOX 436A
WEST FOURTH STREET EXT.
LEWISTOWN, PA 17044

TOM'S SPORTSWEAR, INC.
580 COAL STREET
LEHIGHTON, PA 18235

WALLACE SPORTSWEAR, INC.
650 JACKSONVILLE ROAD
BURLINGTON, NJ 08016

MARIA ROSE FASHIONS, INC.
PALMERTON
FIRST ST & FRANKLIN AVENUE
PALMERTON, PA 18071

MERRY MAID NOVELITIES
600 MURRAY STREET
BANGOR, PA 18013

SCOTTY'S FASHIONS CUTTING, INC.
315 W PENNSYLVANIA AVENUE
PEN ARGYL, PA 18072

SCOTTY'S FASHIONS CUTTING, INC.
R. D. 2
LITTLE GAP, PA

SCOTTY'S FASHIONS CUTTING, INC.
230 OCHRE STREET
LEHIGHTON, PA 18235

TAMA MFG. CO. INC
LEHIGH VALLEY INDUSTRIAL PARK #2
100A CASCADE DRIVE
ALLENTOWN, PA 18103

UNIVERSAL SPORTSWEAR, INC.
525 NORTH MAIN STREET
BANGOR, PA 18013

ZAWICK MFG. CO.
1706 NORTH MAIN STREET
HELLERTOWN, PA 18055

PENNSYLVANIA, OHIO AND SOUTH JERSEY JOINT BOARD

2116 Chestnut Street • Philadelphia, PA 19103 • 215-568-3333

UNITE! UNION OF NEEDLETRADES, INDUSTRIAL AND TEXTILE EMPLOYEES AFL-CIO, CLC

DAVID MELMAN, JOINT BOARD MANAGER

UNITE VICE PRESIDENT

Fax: 215-568-1965

GAIL E. MEYER, ASSOCIATE MANAGER

UNITE VICE PRESIDENT

Fax: 215-568-1928

June 19, 2002

**ALLENTOWN/EASTON
DISTRICT**

1017 Hamilton Street

Allentown, PA 18101

Ph: 610-433-7445

Fax: 610-433-6203

Ms. Susan Schneider

Defense Acquisition Regulations Council

Office of the Undersecretary of Defense (AT&L) DP (DAR)

IMD 3C132

3062 Defense Pentagon

Washington, D.C. 20301-3062

RE: DFARS Case 2002-D003

Dear Ms. Schneider,

In reference to DFARS Case 2002-D003 which is eligible for comment until June 25, 2002.

I am writing on behalf of the garment industry and the workers employed who are represented by UNITE. In our community 30 year- 40 year and 50 year old garment companies produce garments, employ workers and contribute to our region's economic well being.

A new labor- management partnership between garment companies and workers has been formed to compete for Department of Defense work. Workers have the skill to produce quality garments in a quick turnaround and companies have the willingness to invest and retool in order to bid and obtain DOD contracts

Our recommendations and comments are the following:

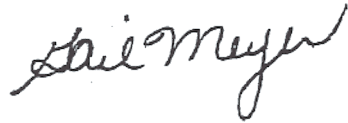
1. Private companies wishing to bid on the open contracts previously held by the Federal Prison Industries need to have a clear definition of the comparable price, quality and time of delivery.

2. We support Congressman Patrick Toomey's position on rescinding the rule to permit FPI to compete for small business set aside contracts.

The domestic garment industry has modern technology, a skilled workforce and committed management teams.

On behalf of the local workers and companies ready to bid and compete for apparel contracts I thank you for your consideration of our comments.

Yours truly,

A handwritten signature in cursive script, appearing to read "Gail Meyer".

Gail Meyer
International Vice President
Joint Board Asso. Manager